

REMARKS

Before entry of this Amendment, claims 1-26 were pending in the application. Claims 21-26 were previously withdrawn. After entry of this Amendment claims 1-20 remain pending under examination. The number of total claims has not been increased, and the number of independent claims has not been increased beyond the number for which payment previously had been made.

In accordance with 37 C.F.R. § 1.116(b), applicants have amended each of independent claims 1 and 15 to add the single word “directly” to make explicit what was believed to be the scope of applicants’ claims when the prior Amendment A was filed and earnestly request entry of said amendment. While the amendment to claims 1 and 15 touches the merits of the application under examination, it is respectfully requested that the amendment be admitted as being necessary to place the case into condition for allowance and having not been earlier presented due to the applicants’ failure to appreciate the Office’s broad reading of the scope of applicants’ claims, thus, the necessity of expressly stating the limitation that was brought to applicants’ attention in the Response to Argument section at lines 4 – 11 on page 8 of the Final Action. As FIG. 2 of applicants’ specification clearly supports the amendment, and applicants’ specification made no mention of an indirect application of the adhesive, applicants’ presumed that the meaning was understood. Moreover, analogous to the statement on the first three lines of page 8 of the Final Action justifying making the Action Final, it was the Final Action’s statement at lines 4 – 11 on page 8 of the Final Action that prompted the amendment herein presented. Thus, the amendment to claims 1 and 15 can be viewed as responding to a requirement of form expressly stated on page 8, lines 4 – 11

of the Final Office Action wherein the Examiner noted that the feature upon which applicant relied in responding to the initial Office Action, was not recited in the rejected claims.

Applicants have carefully considered the Final Examiner's Action of March 27, 2007, and the references cited therein. The following is a brief summary of the Action. Claims 1-11 and 13-20 were rejected under 35 U.S.C.103(a) as being unpatentable over Dobrin et al (U.S. Patent No. 6,383,431) in view of Weber et al (U.S. Patent No. 5,143,679) and Flaum et al (U.S. Patent No. 4,316,755). Claim 12 was rejected under 35 U.S.C. 103(a) as being unpatentable over Dobrin et al, Weber et al and Flaum et al, and further in view of Morman et al (U.S. Publication 2002/0119288A1).

For the reasons explained below, applicants respectfully traverse the rejection of claims 1-11 and 13-20 under 35 U.S.C. § 103(a) as unpatentable over Dobrin et al in view of Weber et al and Flaum et al.

Referring to the disclosure of the Dobrin et al reference, the Final Office Action states at lines 11-22 of paragraph 2 on pages 2 – 3, thereof:

The reference does not disclose forming successive nips between the first roll and multiple second rolls with fins. Weber et al. discloses stretching a laminate using multiple rolls with ribs which interact with a single roll with grooves. This use of multiple rolls reduces the rate at which the stretching of the laminate is carried out, reducing the strain on the web and causing less damage to the laminate than the use of a single roll pair. (Col. 17, ll. 57-Col. 18, ll. 16) It would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the single roll pair of first and second roll in Dobrin et al. with multiple roll pairs formed from separate second rolls interacting with the same first roll since this would reduce the strain on the first web as it is stretched and cause less damage to the web than the use of the single roll pair of Dobrin et al. (Col. 17, ll. 57-Col. 18, ll. 16)

However, the Final Office Action's contention of obviousness is negated by the particular circumstances of the Dobrin et al reference and the Weber et al reference. The Weber et al reference is assigned to the Proctor & Gamble Company and issued in September 1992. The Dobrin et al reference also is assigned to the Proctor & Gamble Company and issued 10 years later in 2002, based on an application filed in 1999. Moreover, the inventors of the Dobrin et al reference cited the Weber et al reference, and thus the Dobrin et al inventors were aware of the disclosure of the Weber et al reference. Nonetheless, as admitted by the Office Action, Dobrin et al failed even to disclose forming successive nips between the first roll and multiple second rolls with fins. Thus, the Final Office Action's contention that to do so was obvious to the person of ordinary skill is refuted by the fact that the Dobrin et al inventors, who are persons of greater than ordinary skill because they themselves were inventors, failed to appreciate the desirability of the formation of successive nips between the first roll and multiple second rolls with fins in the context of the Dobrin et al invention. Hence, the applicants' disclosure provided the motivation for this combination rather than the knowledge of persons of ordinary skill in the art.

Moreover, Weber et al applies to stretching a laminate material that is formed of at least two plies of material that are secured to one another along at least a portion of their coextensive surfaces wherein one of the plies is stretchable and elastomeric while the second ply is elongatable but not necessarily elastomeric. As explained at Weber et al col. 14, lines 7-24:

The backsheet web 5 and topsheet web 6 and the absorbent pads 3 are brought into contact with one another at combining rolls 15. Just prior to the webs and pads

coming into contact with one another, additional adhesive is preferably applied to or both webs which are, for clarity, not shown in FIG 1. The latter adhesive secures predetermined portions of the backsheet, the topsheet and the absorbent pad to one another to form the diaper web 1.

The fully assembled diaper web 1 thereafter preferably proceeds through a pair of bond setting rolls 16, which may require chilling to minimize glue bleed through.

The fully assembled diaper web 1 is then directed through an incremental web stretching employing opposed pressure applicators having three dimensional surfaces which at least to a degree are complimentary to one another system of the present invention, which is shown only schematically as 20 in FIG 1.

Dobrin et al by contrast is concerned with stretching a nonwoven fibrous web rather than a laminate as described in Weber et al. This difference likely explains why the Dobrin et al inventors did not attempt to take any suggestion from Weber et al to use multiple second rolls with fins to form successive nips with the first roll. Such Weber et al teaching likely was deemed inapplicable to what Dobrin et al was doing. Again, the implication to be drawn from these facts clearly favors the non-obviousness of what applicants are claiming.

Flaum et al does not disclose use of a slot coat adhesive process to apply adhesive directly to a flexible sheet material. Rather, Flaum et al discloses application of glue to an applicator roll. Thus, even if Flaum et al were to be read to teach modification of Dobrin et al, it would be to apply glue to an applicator roll rather than to a flexible sheet material. Thus, the Final Office Action relies on applicants' disclosure for the step of applying adhesive to a flexible sheet material with a slot coat adhesive process.

Moreover, Flaum et al states at column 1, lines 10-11 that the hydrodynamics of glue makes it difficult to predict glue behavior accurately. This predisposition of persons of ordinary skill would make such persons unlikely to equate the use of a slot coat adhesive process to apply adhesive to an applicator roll as in Flaum et al with the use of a slot coat adhesive process to apply adhesive to a flexible sheet material. Persons of ordinary skill are likely to regard the behavior of glue on an applicator roll to differ from the behavior of glue on a flexible sheet material.

Additionally, the Flaum et al disclosure pertains to corrugated paper board to make single face board S into double board D. Dobrin et al by contrast is concerned with stretching a nonwoven fibrous web used to make diapers, not double board D used to make cartons in which the boxes of diapers might be shipped to distribution centers.

Finally, Flaum et al is not a slot coat adhesive mechanism. The free flute tips of the single faced board S are brought into contact with the glue that is deposited over Flaum et al's entire glue roll surface 20, and only the tips of the corrugated sheet are dipped into the glue on this glue roll surface 20 of Flaum et al's machine. Flaum et al thus applies adhesive across the entire glue roll surface 20 rather than through a plurality of slots that confine the glue on the surface 20 to discrete ribbons of glue. Accordingly, the Office Action relies on applicants' disclosure for the step of applying adhesive with a slot coat adhesive process.

Concerning claim 6 in particular, the Final Office Action contends that one of ordinary skill would appreciate the specific number of teeth per inch because "both Dobrin et al and applicant are making laminates for the same purpose, i.e. use in a diaper and therefore would desire the same properties." However, this statement puts

the cart before the horse and therefore relies on hindsight rather than any specific teaching in Dobrin et al or any other reference. Thus, claim 6 is patentable under 35 U.S.C. § 103(a) over Dobrin et al in view of Weber et al and Flaum et al for this additional reason.

Applicants therefore respectfully submit that claims 1-11 and 13-20, as presented herein, are patentable under 35 U.S.C. § 103(a) over Dobrin et al in view of Weber et al and Flaum et al.

For the reasons explained below, applicants respectfully traverse the rejection of claim 12 under 35 U.S.C. 103(a) as being unpatentable over Dobrin et al, Weber et al and Flaum et al, and further in view of Morman et al.

Concerning claim 12, the Final Office Action contends that stretching of polymeric films before joining to other webs is well known and conventional in the laminating arts to make the film breathable. If this statement is taken as true, then one must ask the question why Dobrin et al did not bother to mention it in connection with stretching in the cross direction to create breathability, which Dobrin did mention at col. 20, lines 28-31, as asserted at page 5, lines 2-6 of the Office Action. Moreover, this conclusion of the Final Office Action ignores the other perhaps unwanted effects of stretching in the machine direction, which effects would be appreciated by persons of ordinary skill. Such effects include necking of the web that is being stretched in the machine direction. Because stretching in the machine direction has such necking effects known to persons of ordinary skill, it is not enough for the Final Office Action to conclude that it would be obvious to do so in the context of applicants' claimed invention without showing why persons of ordinary skill would ignore these other effects and

resort to stretching in the machine direction. Morman et al [0011] is not in the context of the present claims, for Morman et al [0011] is stretching a second flexible sheet material to lend breathability to a film. However, in applicants' claims, it is the first flexible sheet material that is to undergo the stretching.

As Morman et al fails to correct the deficiencies noted above in Dobrin et al, Weber et al and Flaum et al, applicants therefore respectfully submit that claim 12 is patentable under 35 U.S.C. § 103(a) over Dobrin et al in view of Weber et al and Flaum et al, and further in view of Morman et al

Applicants respectfully request reconsideration and reexamination of claims 1-20, as presented herein, and submits that these claims are in condition for allowance and should be passed to issue.

If any fee or extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension and authorizes charging Deposit Account No. 04-1403 for any such fee not submitted herewith.

Respectfully submitted,

DORITY & MANNING, P.A.

DATE:

2 July 2007

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